

**STATE OF NEW HAMPSHIRE  
EXECUTIVE BRANCH ETHICS COMMITTEE**



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**Advisory Opinion**

2010-1

**Question Presented**

Can multiple gifts from a single source, each individually defined as “presumed to be of insignificant economic value” under RSA 15-B:2, V(a)(2), be accumulated but continue to fall outside the definition of “gift?”

**Summary Answer**

Multiple gifts from a single source in any calendar year cannot exceed the \$25 threshold of RSA 15-B:2, V(a)(2). Any gift, however, that falls within an exception under RSA 15-B:2, V(b) does not count toward the \$25 total.

**Legal Authority**

RSA 15-B, 21-G:30, I(b).

**Analysis**

The term “Gift” under RSA 15-B:2, V(a) is defined to mean:

- (1) Money in any amount, whether in the form of cash, check or any other negotiable or non-negotiable instrumentality for the transfer of money.
- (2) Any other tangible thing, intangible thing, service, or the use thereof having

more than insignificant economic value. Any such item with a value of less than \$25 is presumed to be of insignificant economic value.

RSA 15-B:2, V(b) lists those things not included within the definition of a gift. Unless not included in the definition of gift under RSA 15-B:2, V(b), a person subject to the law who accepts a gift in violation of the law is subject to the penalty provisions of RSA 15-B:9, which says:

15-B:9 Penalty. – Any person who knowingly fails to comply with the provisions of this chapter or knowingly files a false report shall be guilty of a misdemeanor. It shall be an absolute defense in any prosecution under this chapter that the person acted in reliance upon an advisory opinion on the subject issued under RSA 14-B:3, I(c) or RSA 21-G:30, I(c).

Given the potential criminal liabilities associated with a violation of the law, the Committee believes it is important to interpret the language of RSA 15-B:2, V(a)(2). The law does not state whether the \$25 insignificant economic value threshold is a cumulative figure, or whether it is a limitation on each exchange, notwithstanding the number of times a single source gives something of less than \$25 in value to a covered person. If it is a cumulative figure, the law also does not provide guidance on the period of time over which the value of gifts accumulates before resetting to \$0.00, if ever.

When interpreting statutes, the Supreme Court has said it will look to the language of the statute itself, and, if possible, will construe that language according to its plain and ordinary meaning. *DaimlerChrysler Corp. v. Victoria*, 153 N.H. 664, 666 (2006). The Court will not pick and choose among portions of the statute, but will read the statute as a whole. *See id.* The Court has said it will neither consider what the legislature might have said nor add words that it did not see fit to include. *Id.* Nor will the Court interpret statutory language in a literal manner when such a reading would lead to an absurd result. *Great Traditions Home Builders v. O'Connor*, 157 N.H. 387, 388 (2008).

It is the opinion of the Committee that the legislature did not intend to allow covered persons to receive an unlimited number of gifts from a single source, even if the value of each gift is less than \$25. It is also the opinion of the Committee that the legislature did not intend that the \$25 threshold apply to a lifelong series of gifts, but instead provides a cap on total exchanges over a reasonable period of time. The Committee has concluded that it is reasonable to accumulate the value of gifts received over the course of a calendar year (January 1 to December 31) from a single source. To the extent the total value of all gifts from a single source exceeds \$25 over a calendar year, the presumption of insignificant economic value does not apply.

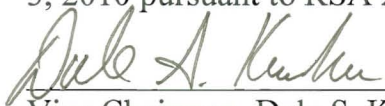
If multiple gifts were allowed to accumulate beyond the \$25 threshold, a person subject to the law could accumulate gifts worth substantially more than \$25 in cumulative value. It is the opinion of the Committee that such accumulation of gifts should not be subject to the presumption of insignificant economic value.


To the extent that anything received from such a source is not included within the definition of Gift under RSA 15-B:2, V(b), however, such a thing received does not count toward the cumulative value of \$25.

### **Conclusion**

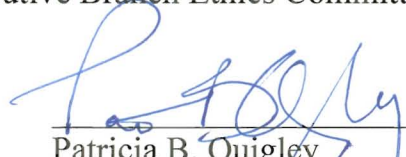
Gifts from a single source in any calendar year cannot exceed the \$25 threshold of RSA 15-B:2, V(a)(2). Any gift, however, that falls within an exception under RSA 15-B:2, V(b) does not count toward the \$25 total.

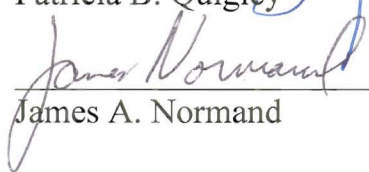
This Advisory Opinion is issued by the Executive Branch Ethics Committee on February 3, 2010 pursuant to RSA 21-G:30, I (c).

  
Vice Chairman, Dale S. Kuehne

  
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